

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III

841 Chestnut Building
Philadelphia, Pennsylvania 19107



IN RE: :
ELLICOTT MACHINE CORPORATION, : Docket No. TSCA-III-315
Baltimore, Maryland, :
: CONSENT AGREEMENT
Respondent :

I. Preliminary Statement

1. This administrative proceeding for the assessment of a civil penalty was initiated pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a). The United States Environmental Protection Agency (EPA) issued a Complaint and Notice of Opportunity for Hearing on or about February 25, 1988, against Respondent pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and regulations concerning polychlorinated biphenyls (PCBs) promulgated thereunder at 40 C.F.R. Part 761 (the PCB Rule). The Complaint alleged that Respondent violated TSCA and the use, recordkeeping and marking requirements of the PCB Rule.
2. For purposes of this proceeding, Respondent admits the jurisdictional allegations of the Complaint.
3. For purposes of this proceeding, Respondent neither admits nor denies the specific factual allegations contained in the Complaint.
4. Respondent expressly waives its right to request a hearing on any issue of fact or law set forth herein.
5. The parties agree that each party to this action shall bear its own costs and attorney's fees.
6. Respondent consents to the issuance of this Consent Agreement and the Consent Order hereinafter recited, and consents to the assessment of a civil penalty of Eleven Thousand Four Hundred Dollars (\$11,400.00).

7. Respondent agrees to fully perform the settlement conditions as set forth in the attached Settlement Conditions Document (SCD) executed by EPA and incorporated as a part of this agreement in settlement of this proceeding and to pay Eleven Hundred Forty Dollars (\$1,140.00) to EPA as provided in the attached Consent Order. EPA agrees to remit Ten Thousand Two Hundred Sixty Dollars (\$10,260.00) of the \$11,400.00 civil penalty in the event that Respondent fully performs the conditions set forth in the SCD and pays \$1,140.00 as directed in the Consent Order. EPA further agrees that such full performance and payment of \$1,140.00 by Respondent will constitute a full and final settlement of all civil claims raised by the Complaint. Respondent understands that its failure either to fully perform the conditions or to pay the \$1,140.00 as directed constitutes a breach of this agreement, and that any such failure will cause the balance of the \$11,400.00 penalty to become due.

II. Findings of Fact

The factual allegations contained in the Complaint are incorporated herein by reference and adopted by EPA as the Findings of Fact herein.

III. Conclusion of Law

EPA concludes that Respondent's failures to comply with the requirements of the PCB Rule at 40 C.F.R. §§ 761.30(a)(1)(ix), (xii) and (vi), 761.40(j), and 761.180(a) constitute violations of Section 15(1)(C) of TSCA, 15 U.S.C. § 2614(1)(C).

For Respondent:

4/4/89
Date

Peter A. Bowe
Peter A. Bowe, President
Ellicott Machine Corporation

For Complainant:

4/17/89
Date

Elizabeth S. Spencer
Elizabeth S. Spencer
Assistant Regional Counsel
EPA Region III

Accordingly, the Hazardous Waste Management Division, EPA Region III, recommends that the Regional Administrator issue the Consent Order set out below, after signing both the Order and the Settlement Conditions Document. The amount of the recommended penalty is \$11,400.00.

4/26/89
Date

Thomas C. Voltaggio
Thomas C. Voltaggio, Acting Director
Hazardous Waste Management Division